

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 5696 OF 2005
IN
CRIMINAL APPEAL NO. 820 OF 2005

Sadanand Javu Nokate ...Applicant

Versus

The State of Maharashtra ...Respondent

.....

Mr. Prakash Naik, Advocate for Applicant

Mr. Y.S.Shinde, A.P.P. for State.

.....

CORAM: SMT. V.K. TAHILRAMANI, J.

DATED: 21ST SEPTEMBER, 2005

P. C. :-

1. Heard both sides.

2. The applicant is seeking bail. The applicant has been convicted under Section 306 and 323 of I.P.C. The sentence imposed on the applicant under Section 306 is of five years.

3. It is the case of the prosecution that the applicant was harassing his cousin brother Bharat (deceased) by abusing and assaulting him. On account of this, his cousin brother Bharat committed suicide on 9.10.2001.

4. The prosecution has relied on the suicide note written by the deceased Bharat. However, Mr. Naik, the learned advocate for the applicant has pointed out that none of the witnesses have identified the writing in the suicide note to be that of the deceased. This submission has not been controverted by the prosecution. Mr. Naik has further submitted that on the date of the incident i.e. on 9.10.2001 there is nothing on record to show that the applicant instigated the deceased to commit suicide. He has submitted that it is true that the applicant had assaulted the deceased on the day of the incident. Mr. Naik has further submitted that no injuries were found on the body of the deceased on account of assault. Moreover, he has submitted that the said act of assault by itself was not enough to instigate the deceased to commit suicide. On perusal of the evidence, I find much merit in these submissions.

5. It is stated by the learned advocate for the applicant that the applicant was on bail pending the trial and this liberty has not been misused by him. This statement has not been controverted by the prosecution. In view of all the facts and circumstances, I am inclined to grant bail.

6. The applicant Sadanand Javu Nokate to be released on bail in the sum of Rs.20,000/- with one or two

sureties to make the said amount. The applicant shall report on second and fourth Sunday of every month to Manikpur police station, Vasai, during the pendency of this appeal.

7. Application is disposed of.
